

ENTERED

March 27, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JODY EZELL, <i>et al.</i> ,	§	
	§	
	§	
Plaintiffs,	§	
v.	§	CIVIL ACTION NO. H-21-2046
	§	
DAN DINGES, <i>et al.</i> ,	§	
	§	
Defendants.	§	

ORDER

On October 5, 2020, the Delaware County Employees Retirement System brought a securities fraud class action suit against Cabot Oil & Gas Corporation, its Chief Executive Officer (Dan Dinges), and its Chief Financial Officer (Scott Schroeder), on behalf of itself and purchasers of Cabot common stock between October 23, 2015 and June 12, 2020. *Del. Cnty. Emps. Retirement Sys. V. Cabot Oil & Gas Corp.*, No. 21-cv-2045 (S.D. Tex.), (Docket Entry No. 1). Shortly after, Jody Ezell filed this shareholder derivative suit. *Ezell v. Dinges*, No. 21-cv-2046 (S.D. Tex.), (Docket Entry No. 1). The two cases have proceeded on a coordinated, but not consolidated, basis.

On June 24, 2022, the defendants in the *Ezell* case filed a motion to dismiss. (Docket Entry No. 94). The plaintiffs were granted an extension to file their response. (Docket Entry No. 96). Meanwhile, on August 10, 2022, the court granted in part and denied in part a separate motion to dismiss filed in the *Delaware County* case. (Docket Entry No. 118). On August 12, 2022, the *Ezell* plaintiffs filed their response to the motion to dismiss pending in that case. (Docket Entry No. 97).

Given the court's intervening ruling and the lack of supplemental briefing addressing that ruling, the pending motion to dismiss in this case, (Docket Entry No. 94), is denied as moot. The defendants may file a renewed motion to dismiss, and the renewed motion to dismiss should additionally address three issues:

- (1) What effect, if any, does the court's ruling on the motion to dismiss in the *Delaware County* case have on the motion to dismiss in *Ezell*?
- (2) What effect, if any, does the pending class certification motion in *Delaware County* have on the *Ezell* case?
- (3) Should the two cases continue to proceed on a coordinated basis or should they be consolidated?

The renewed motion to dismiss must be filed no later than April 28, 2023. The responsive brief must be filed no later than May 19, 2023. The reply must be filed no later than May 26, 2023. The court will hear argument on the motion to dismiss on **July 7, 2023 at 10:00 AM** in Courtroom 11-B, United States Courthouse, 515 Rusk, Houston, Texas.

SIGNED on March 27, 2023, at Houston, Texas.



Lee H. Rosenthal
United States District Judge